

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

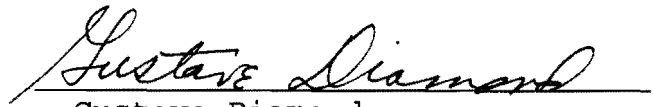
UNITED STATES OF AMERICA)
)
 v.) Criminal No. 09-313
)
EDWARD SICELOFF)

MEMORANDUM ORDER

And now, this 27th day of January, 2014, upon due consideration of a motion for relief from judgment pursuant to Rule 60(b)(4) of the Federal Rules of Civil Procedure filed by Edward Siceloff ("defendant") and the government's response thereto, IT IS ORDERED that defendant's motion (Document No. 72), be, and the same hereby is, **denied**.

On November 18, 2009, a grand jury returned a one-count indictment against defendant charging him with failure to file a tax return. On June 30, 2010, defendant was convicted by jury verdict. By criminal judgment entered on November 23, 2010, defendant was sentenced to a term of imprisonment of 12 months to be followed by a term of supervised release of one year. On November 15, 2011, the United States Court of Appeals for the Third Circuit affirmed defendant's conviction and sentence. Defendant did not seek a writ of certiorari from the United States Supreme Court nor did he file any sort of motion for post-conviction relief.

Defendant's pending motion seeks to have his criminal conviction vacated as "void" pursuant to Rule 60(b)(4) of the Federal Rules of Civil Procedure. However, this is a *criminal* case, not a *civil* one, and the Federal Rules of Civil Procedure do not apply in criminal proceedings. United States v. Birt, ___ Fed.Appx. ___, 2013 WL 5615277 (3d Cir., Oct. 15, 2013); United States v. McCalister, 601 F.3d 1086, 1087-88 (10th Cir. 2010) (noting that Fed.R.Civ.P. 1 unambiguously provides that the Federal Rules of Civil Procedure only apply in civil proceedings). Thus, civil procedural rules indisputably are not an appropriate vehicle for challenging a criminal conviction. United States v. Pope, 124 Fed.Appx. 680 (2d Cir. 2005); see also, United States v. Mortimer, 2007 WL 1041029 (W.D.Pa., April 3, 2007) (S.J. Bloch). Accordingly, defendant's motion is denied.


Gustave Diamond
United States District Judge

cc: Shaun E. Sweeney
Assistant U.S. Attorney

Edward Siceloff